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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,557	07/07/2003	Frank Yang	PAT-1512	5796

7590 09/03/2004

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,557

Applicant(s)

YANG ET AL.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is the second office action for application number 10614,557, Trash Can Assembly, filed on July 7, 2003.

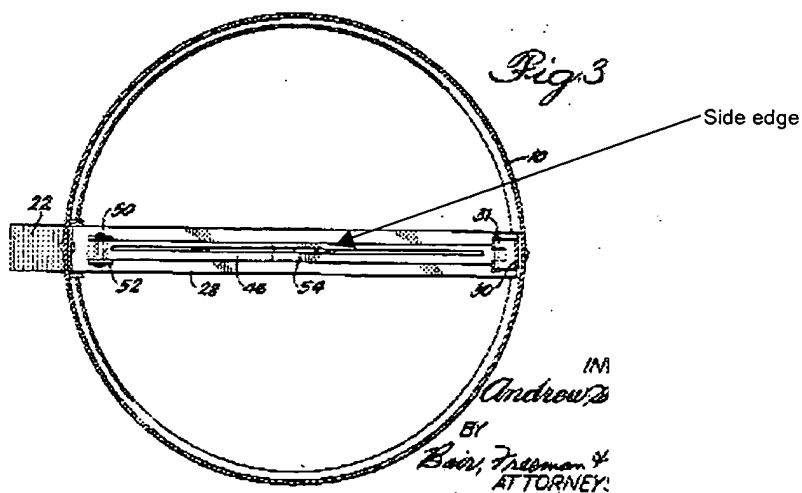
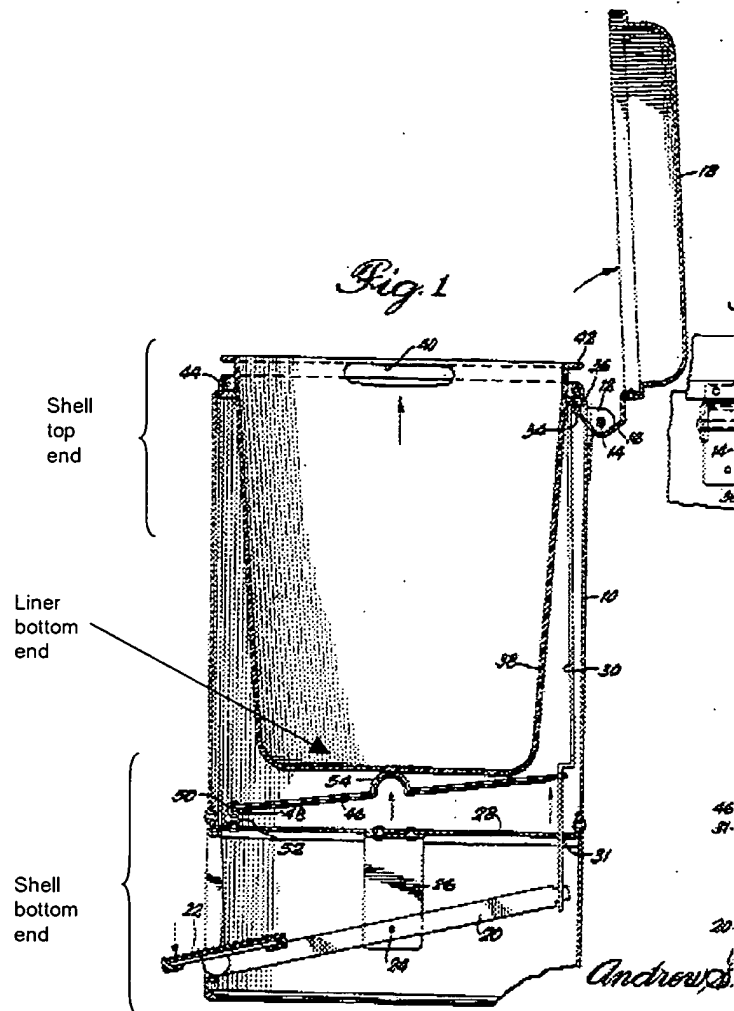
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 2,946,474 to Knapp.



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Knapp '474 discloses a trash can assembly (above) comprising a shell (10) having top and bottom ends (above) wherein the bottom end has a side edge (above, the edge is on the bottom end, and the edge is on a side of a section of the bottom end), a liner (38) defining a container body and fitted inside the shell, a lid (18) fitted over the top end, a foot pedal (22) positioned adjacent the bottom end of the shell, a link assembly (20,30) coupling the foot pedal and the lid, and a support block/means (54, a "block" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as being "a compact usually solid piece of substantial material... to serve a particular purpose," so clearly 54 is a "support block") provided adjacent the side edge of the bottom end of the shell, wherein the liner has a bottom end that is supported by the support block when the liner is in a raised position, wherein the assembly includes a base (46, or alternatively 28) with the support block provided on the base.

Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 6,010,024 to Wang.

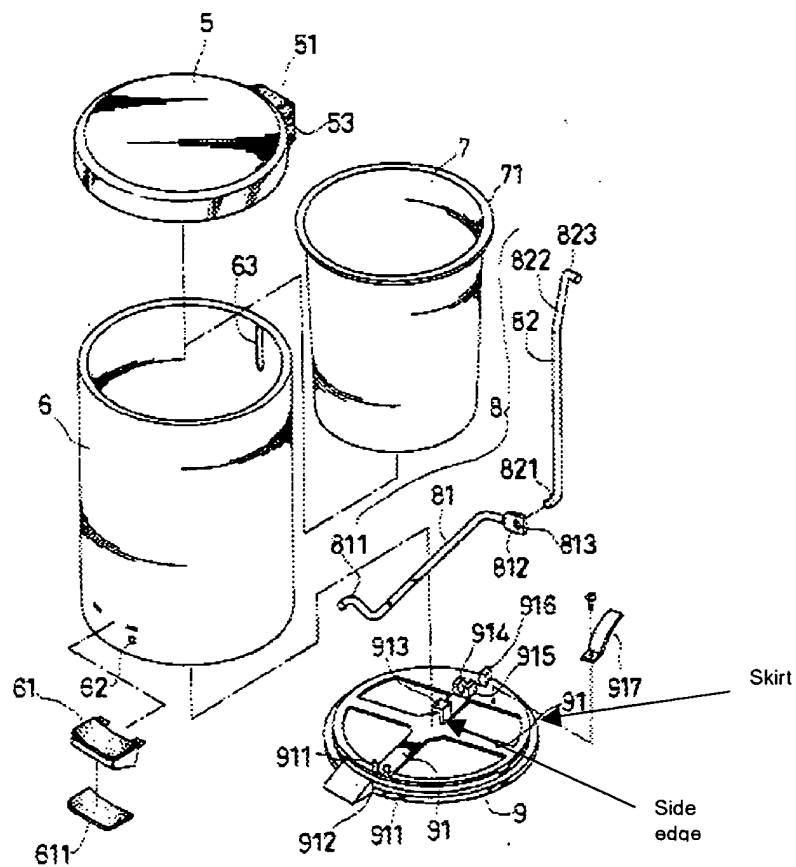
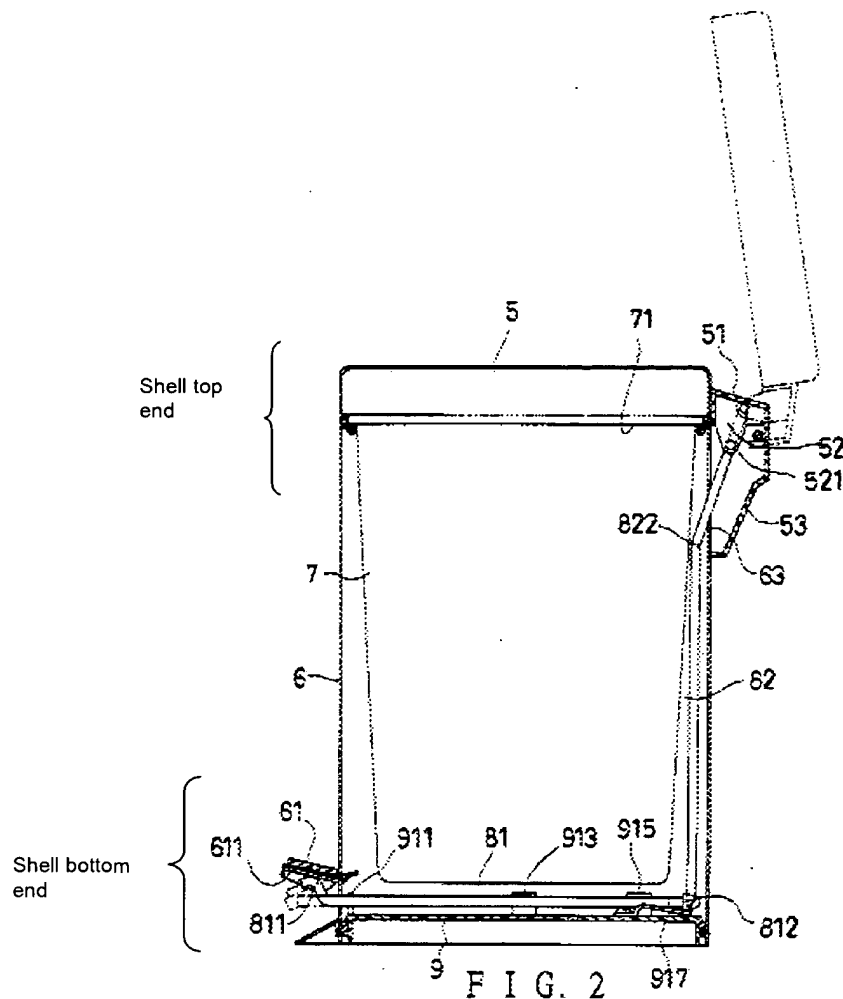


FIG. 1



Wang '024 discloses a trash can assembly (above) comprising a shell (6) having top and bottom ends (above) wherein the bottom end has a side edge (above, the edge is on the bottom end, and the edge is on a side of a section of the bottom end), a liner (7) defining a container body and fitted inside the shell, a lid (5) fitted over the top end, a foot pedal (61) positioned adjacent the bottom end of the shell, a link assembly (81,82) , coupling the foot pedal and the lid, and a support block/means (913, a "block" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as being "a compact usually

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solid piece of substantial material... to serve a particular purpose,” so clearly 913 is a “support block”) provided adjacent the side edge of the bottom end of the shell, wherein the assembly includes a base (9) with the support block provided on the base.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp '474 in view of U.S. Patent Application number US 2002/0079315 to Yang.

Knapp '474 divulges the previous invention failing to specifically teach the skirt to surround the bottom end of the shell. However, Yang '315 teaches trash can assembly (figure 3) including a base (38) with a skirt (50) surrounding the bottom end of a shell (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the skirt of Wang '024 to surround the base as in Yang '315 so as to provide for a more structurally sound assembly, and to reduce the likelihood of the assembly tipping over.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp '474 in view of U.S. Patent number 5,598,942 to Cowie.

Knapp '474 divulges the previously described invention and inherently teaches a method comprising providing a trash can assembly as previously described, wherein the

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liner is seated inside the shell, the liner is raised with respect to the interior of the shell (when pedal is pushed), and the liner is supported on the support block in a raised position with respect to the shell. However, Knapp '474 fails to specifically teach the liner to have a trash bag fitted therein, wherein the trash bag is fitted in the liner, then the liner is seated within the shell, and wherein the trash bag is removed and replaced when the liner is supported on the support block.

Cowie '942 reveals a trash bag assembly (figure 3) comprising a shell (1), liner (5) and trash bag (2), wherein the bag is first fitted in the liner and then the liner is seated in the shell (column 2, lines 35-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of Knapp '474 by fitting a bag into the liner before seating the liner into the shell so as to provide for a more sanitary assembly by only need to replace an inherently cheap and lightweight bag instead of the entire liner when the assembly is full of trash, in addition to providing an extra layer of material between the trash and rest of the assembly. Further, it would have been obvious to remove the trash bag when the liner is in a raised position with respect to the shell on the support block so as to facilitate removal and replacement of the trash bag by providing a more convenient location with which to access the trash bag. Finally, an ordinary artisan would certainly recognize the need to remove and replace the trash bag when it becomes full.

Allowable Subject Matter

Claims 5 and 9 are allowed.

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for allowance for claims 5, 9 and 11 can be found in the previous office action.

Response to Arguments

Applicant's arguments filed August 10, 2004 have been fully considered but they are not persuasive.

In the middle of page 5 of the remarks, the applicant contends that in Knapp and Wang, support blocks are not provided adjacent any side edge of the bottom end of the shell. The Examiner disagrees. Clearly, the bottom ends of Knapp and Wang have many components, and each of the support blocks is located on a side edge of one of the components of the bottom ends. Therefore, the support blocks are in fact located adjacent a side edge of the bottom ends.

Further, with respect to the liner not being supported in a raised position at an angle with respect to the shell, it is first noted that such language in the claims is merely functional language ("to support the liner..." and "for supporting the liner..."). Further, it would be impossible for liners to not be inherently supported at *some* angle (0 degrees is an angle).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.


The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
August 26, 2004



ANITA KING
PRIMARY EXAMINER